

Cahoy Supp. Dec. Ex. 101

APPEARANCES

For Plaintiff, COHEN, MILSTEIN, SELLERS & TOLL
Franciscan Alliance, By: Zachary Glubiak, Esq.
and the Witness: 1100 New York Avenue NW
5th Floor
Washington, DC 20005
(202) 408-4600
zglubiak@cohenmilstein.com

For Defendant COVINGTON & BURLING LLP
Intuitive Surgical: By: Isaac D. Chaput, Esq.
Mariam Azhar, Esq.

415 Mission Street
Suite 5400
(415) 591-7120
ichaput@cov.com

mazhar@cov.com

Also Present: Noah Suszckiewicz, Videographer
Douglas Essex, Franciscan
Alliance

1 them with counsel?

2 A. I did not.

3 Q. Have you ever spoken with anyone from Valley
4 Medical Center in Seattle, Washington?

5 A. I have not.

6 Q. Have you ever spoken with anyone from Larkin
7 Community Hospital in Miami, Florida?

8 A. I have not.

9 Q. Would you describe for me, please, your
10 medical training.

11 A. I am a board certified colorectal surgeon.
12 I did my undergraduate education at Northwestern in
13 Evanston, Illinois; I did my medical school training
14 at Northwestern in Chicago; I then went on to general
15 surgery residency training at Mount Sinai Medical
16 Center in New York City; and then I completed my
17 colorectal residency training at Cleveland Clinic
18 Florida in Weston, Florida.

19 Q. After completing your fellowship, where did
20 you practice medicine?

21 A. This has been my one and only job here at
22 Franciscan.

23 Q. So you've been employed by Franciscan
24 consistently since completing your fellowship?

25 A. I was initially in my same practice, but we

1 were independent, and we were employed by Franciscan
2 about ten or eleven years ago.

3 Q. So you were initially an independent
4 contractor, and then later became a Franciscan
5 employee; is that right?

6 A. That's right.

7 Q. Okay. When did you complete your
8 fellowship?

9 A. I completed it in July -- June 2007.

10 Q. Do you perform surgeries at any hospitals
11 other than those operated by Franciscan Alliance?

12 A. I do do some outpatient surgery at a
13 community hospital called Community South.

14 Q. Anywhere else that you perform surgeries?

15 A. No.

16 Q. Does Community South have any affiliation
17 with Franciscan?

18 A. No, it does not.

19 Q. What surgical modalities do you use for the
20 surgeries that you perform at Community South?

21 A. These are essentially just outpatient
22 procedures. So a fair bit of colonoscopy, and then
23 maybe some minor things around the anal canal, like
24 hemorrhoids or fistulas, et cetera. So just kind of
25 anal instrumentation.

1 Q. What types of surgeries do you perform at
2 Franciscan facilities?

3 A. I do really the entire breadth within colon
4 and rectal surgery. So the same outpatient cases
5 that I just mentioned, which includes colonoscopy and
6 anal rectal surgery, and then I do a variety of
7 abdominal surgeries of diseases confined to the colon
8 and rectum and anus.

9 Q. What are the five surgical procedures you
10 perform most frequently at Franciscan?

11 A. Number 1 would be colonoscopy; Number 2
12 might be hemorrhoidectomy; Number 3 would likely be a
13 segmental colon resection, like a sigmoid resection;
14 Number 4 is probably a rectal cancer resection; and
15 Number 5 is probably a segmental colectomy on the
16 right side, a laparoscopic right hemicolectomy.

17 These are, again, educated guesses.

18 Q. Understood. Thank you.

19 You mentioned the last surgery you said it
20 was a laparoscopic surgery.

21 What is a laparoscopic surgery?

22 A. A laparoscopic surgery is a modality in
23 which we use a camera, like a laparoscope, to assist
24 with visualization, as well as using abdominal
25 insufflation to get access to the abdominal cavity,

1 perform using the Da Vinci system?

2 A. The rectal cancer operations.

3 Q. Do you also perform rectal cancer operations
4 laparoscopically?

5 A. I do.

6 Q. Do you also perform rectal cancer operations
7 using the open modality?

8 A. I do.

9 Q. What Da Vinci Surgical Systems do you use
10 currently?

11 A. The Da Vinci Xi only.

12 Q. Have you used other Da Vinci systems in the
13 past?

14 A. I have. I have used the Si and the model
15 before that as well.

16 Q. Are there any benefits to the Xi system over
17 the prior generations?

18 A. There is.

19 Q. What are those benefits?

20 A. There is ease of docking, more fluid arm
21 movements to allow just more flexibility in where
22 you're operating, being -- if you want to operate in
23 multi-quadrant surgery, it's advantageous for that as
24 well.

25 Q. When you say it's more advantageous for

1 multi-quadrant surgery, why is that?

2 A. Because there's more arm flexibility; so
3 you're able to get into various parts of the abdomen
4 without having to re-dock.

5 Q. Any other benefits of the Xi over prior
6 generations?

7 A. Those are the main ones.

8 Q. When you first see a patient, how do you
9 determine the best treatment for that patient?

10 A. Are you referring to, like, which technique
11 to employ?

12 Q. Correct.

13 Well, both the decision of which technique
14 to employ, but then also whether there are -- how do
15 you explore surgical versus non-surgical options as
16 well?

17 A. Yeah.

18 Again, it really depends on -- on the
19 diagnosis. You know, the most common thing that I
20 probably see is malignancy, and the majority of
21 malignancies that I see are typically surgically
22 addressed, as that is really the only cure for colon
23 and rectal cancer.

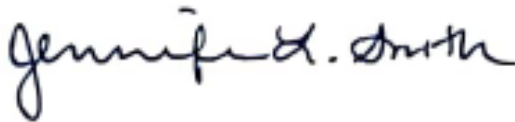
24 And so a lot of times it's not a question of
25 if but when and how to operate.

REPORTER'S CERTIFICATE

I, JENNIFER L. SMITH, California CSR No. 10358, Washington CCR No. 3101, RMR, CRR, CRC, and Notary Public within and for the State of Colorado, commissioned to administer oaths, do hereby certify that previous to the commencement of the examination, the witness was duly sworn by me to testify the truth in relation to matters in controversy between the said parties; that the said deposition was taken in stenotype by me at the time and place aforesaid and was thereafter reduced to typewritten form by me; and that the foregoing is a true and correct transcript of my stenotype notes thereof.

That I am not an attorney nor counsel nor in any way connected with any attorney or counsel for any of the parties to said action nor otherwise interested in the outcome of this action.

My commission expires: February 7, 2026



JENNIFER L. SMITH
CA CSR NO. 10358
WA CCR NO. 3101
RMR, CRR, CRC,
and Notary Public

Date: November 18, 2022